



Delaware Public Attorney Student Loan Repayment Assistance Program

2023 Annual Report

November 2023

Table of Contents

Letter from the Executive Director	3
Committee Membership	4
Executive Summary	5
Program Background	6
Applicant Demographics	8
Agency	8
Gender	9
Legal Area	9
Age	9
Race & Ethnicity	10
Legal Area	10
Recommendations	11
Conclusion	11
Appendix A: HB 380	13





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September 2023

Dear Reader:

On October 24, 2022, Governor John Carney signed into law HB 380 of the 151st General Assembly establishing the Public Attorney Student Loan Program (PASLP) for attorneys employed with the State of Delaware working as attorneys. The program allows qualified applicants to apply for a payment from the State to the applicant's lending agency to pay a portion of the applicant's student loan debt. The purpose of the program is to improve recruitment and retention for legal service providers at a time when the state is having difficulty attracting attorneys passionate about public service.

The following report, including recommendations, is the inaugural annual report required by HB 380 and the Public Attorney Student Loan Program.

I would like to thank the members of the loan committee and Criminal Justice Coordinator, Kathleen Kelly, the primary author of this report, for their effort and dedication in making this program successful.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Kervick", written over the word "Sincerely,".

Christian Kervick
Executive Director

Loan Award Committee

Pursuant to HB 380, the “Loan award committee,” referred to as the PASLRAP Committee, is composed of the following members:

- a) Executive Director of the Criminal Justice Council.
- b) The Chief Defender, or the Chief Defender’s designee.
- c) The Attorney General, or the Attorney General’s designee.
- d) The Chief Justice, or the Chief Justice’s designee.
- e) A member of the Delaware bar appointed by the Governor.

Committee Position	Name
Executive Director of the Criminal Justice Council	Christian Kervick
The Chief Defender, or the Chief Defender’s designee	Kevin O’Connell Proxy: Liz Evans
The Attorney General, or the Attorney General’s designee	Hon. Kathy Jennings Proxy: Dan Logan
The Chief Justice, or the Chief Justice’s designee	Chief Justice Collins J. Seitz, Jr. Proxy: Kyle Baranski
A member of the Delaware bar appointed by the Governor	Eric Hacker of Morris James Law Firm

Executive Summary

The Criminal Justice Council (CJC) is responsible under HB 380 for administer the Public Attorney Student Loan Repayment Assistance Program (PASLRAP). The CJC is proud to assist Delaware agencies in retaining and recruiting public attorneys by offering student loan repayment assistance. Student loan debt is consistently cited as the overwhelming reason why attorneys decline or leave the public and non-profit sectors. Delaware's new State Public Attorney Student Loan Repayment Assistance Program ultimately serves as an incentive to attract and retain quality legal services and better serve the citizens of Delaware. The Public Attorney Loan Award Committee, established by House Bill 380, was signed by Governor John Carney on October 24, 2022, and all appointments were completed by the Governor within three months of signage.

On February 1, 2023, the PASLRAP Committee convened to finalize the application benefits selection process. The Committee opened the application acceptance period on February 15th and closed on April 28th. Although no applicant was rejected on eligibility grounds, the two informational sessions to introduce the Program yielded important questions that helped clarify the process moving forward. The Committee Members conducted direct outreach with agencies and individuals to encourage as many eligible applicants as possible to apply. Several interested attorneys self-selected out of applying due to the salary cap outlined in the legislation.

The allocation for State Fiscal Year 2023 was \$500,000. The Committee hoped to receive at least 100 applications from public attorneys saddled with educational loan debt. Once the CJC received all applications and screened for eligibility, the Committee met and approved all 45 applications in May 2023. Per the statute, benefits are split equally between all applicants. SFY 2023 benefits were in the amount of \$5,000 payments made directly to student loan servicers. In total, the eligible public attorneys received student loan repayment assistance totaling \$223,000. One applicant had a cumulative loan balance of \$3,000 and only received a \$3,000 benefit payment. The remainder will be spent out in the SFY2024 plan year to support additional attorneys. The Program will also support a new web-based application portal to streamline the process for applicants.

Background

Two other Federal Programs exist to assist with student loan repayment for public attorneys. This section summarizes existing programs and provides insight on the development of the State's new Public Attorney Student Loan Forgiveness Repayment Program.

The ***Public Service Loan Forgiveness Program***, or PSLF, is available to individuals who work in public service for 10 years or more since 2007. Public service is defined as working at the federal, state, or local levels, tribal government, or at a non-profit organization. Applicants must make 120 qualifying payments while working for an eligible employer and carry federally-backed loans (i.e., Direct Loans, Direct PLUS Loans). Applicants with private student loans or mixed federal and private loans are only able to apply for forgiveness on federally-backed loans.

The American Bar Association (ABA) conducts surveys of young lawyers to determine the effects of student loan debt. In their 2021 report, they found that PSLF plays a crucial role for young attorneys in public service jobs. Specifically, 80% of the ABA surveyed attorneys who indicated they are pursuing PSLF reported that their employment in their chosen public service positions is specifically because of PSLF. If borrowers can afford to make qualifying payments for 10 years, PSLF offers a substantial incentive to public attorneys once they receive forgiveness of their loan balances through the program.

John R. Justice Federal Grant Program: The John R. Justice (JRJ) Grant Program to Assist Public Defenders and Prosecutors in their student loan repayment has been in existence since 2010. This program is open exclusively to Delaware Public Defenders employed by the Office of Defense Services and Department of Justice attorneys with 75% or more of a criminal caseload. This repayment program is restricted to certain types of federally-backed educational loans. Payments are only available as lump-sums, paid directly to the student loan servicer. Participation in the JRJ program requires an initial 3-year commitment to stay in an eligible position at ODS or DOJ. Once the 3-year service term is complete, eligible attorneys may apply for additional rounds of funding, but they

must agree to stay for an additional year in an eligible position. Over the years, JRJ allocations for Delaware Public Defenders and Prosecutors has ranged from \$30,000 to \$100,000. Applicants with private student loans or mixed federal and private loans are only able to apply for forgiveness on federally-backed loans.

Participation in the program is capped at \$60,000 per applicant, and no more than \$10,000 per year per applicant. The median award amount for successful applicants is \$1,500 in benefits paid to their loan servicer on their behalf. Delaware JRJ recipients have received payments to their lender ranging from \$525 to \$7,500. The highest total an applicant has received to date is \$23,721 in repayment assistance over 11 grant award years.

Delaware's Public Attorney Student Loan Repayment Assistance Program

(PASLRAP) was created through the passage of HB 380 in 2022. The goal of the Program is to attract and retain quality attorneys working in the public sector—government and legal aid. This Program serves as an incentive for attorneys to preserve and protect legal rights while serving some of the most vulnerable and marginalized residents of the State of Delaware. The ABA's 2021 summary report on their student loan survey indicates that 90% of early-career lawyers have student loans, averaging \$130,000. Further, the survey found that Black/African American borrowers accumulated more debt to obtain their law degree compared to other borrowers of other racial/ethnic backgrounds, and that most young lawyers who borrowed for their education reported that their debt caused them to delay or forego pursuing traditional life milestones, such as purchasing a home, marriage, and starting a family. An overwhelming majority of borrowers indicated their debt influenced their choice of job or career in some way. More specifically, the study found that almost a third of young attorneys made career decisions resulting in a *shift away from public service due to their debt*. While other programs exist to incentivize public service for young attorneys, this new Program offered by the State of Delaware offers immediate repayment assistance for borrowers employed for at least a year with the State or one of its Legal Aid agencies.

In Delaware, the Office of Defense Services and the Department of Justice employ the majority of attorneys working for the state. They found that student loan debt was an

enormous burden for their attorneys, who reported monthly payments between \$500 and \$1,000 to pay down debts often exceeding \$100,000. The rising costs of university and law school tuition caused the current student loan crisis, which is exacerbated by the sizable salary pay gaps between the state and private sector. These factors have created recruitment and retention issues in the legal sector of state government and the non-profit legal aid organizations. As such, the State moved to create and implement this Program to ensure and improve access to justice for those visiting or living in the State of Delaware.

This Act establishes a Student Loan Repayment Program for attorneys employed by the State of Delaware and select Legal Aid Organizations whose primary job function is the practice of law. The Program allows qualified applicants to apply for Program benefits where the State makes a direct payment to the applicant's lending agency to pay a portion of the applicant's student loan debt. The amount of the award shall be equally allocated across all eligible applicants in an amount no less than \$2,500 and no more than \$5,000. Applicants are permitted to apply up to 10 times when the Program is annually renewed. Applicants with a salary over \$110,000 are ineligible for the Program. The application process and benefits payments are administered by the Criminal Justice Council and overseen by a Committee of stakeholders defined in the statute who represent the state's legal system. Benefits paid to the lender on behalf of the borrower may be made in a monthly or lump sum payment. This Program provides immediate benefits in repayment relief (unlike PSLF) and to a larger eligibility pool of applicants (unlike JRJ) to serve as an incentive to attract and retain qualified and skilled attorneys to state and non-profit legal aid agencies.

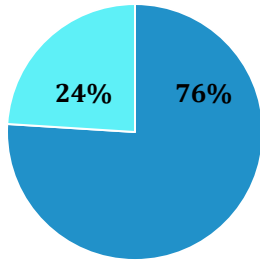
Applicant Demographics

Agency

The authorizing legislation designed this Program for public attorneys working for the State of Delaware and three civil legal organizations: Community Legal Aid Society, Inc. of Delaware, Legal Services Corporation of Delaware, and the Delaware Volunteer Legal Services. Of the 45 applicants, 22% attorneys applied from non-state agencies, including Community Legal Aid Society, Inc. of Delaware and Legal Services Corporation of Delaware.

Although attorneys from Delaware Volunteer Legal Services could have been eligible, none applied this year. Of the 35 applicants who work for the state, the majority reported Office of Defense Services (17) and the Department of Justice (16), with single applicants from the General Assembly and Office of the Child Advocate.

Gender



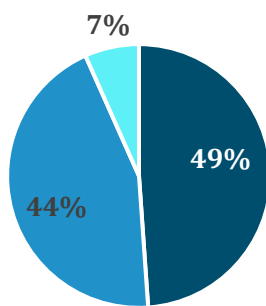
Applicants were asked to self-identify their gender and not choose from set categories. Three-quarters (34 or 76%) of applicants are female, and the remaining quarter (11 or 24%) are male.

Table 1.

Legal Area

Applicants were asked to name their legal area and not choose from set categories. 60% (27) of the attorneys work in criminal law, while 11% (5) reported working in housing law, and 7% (3) reported working in family law. The attorneys reported a variety of specialties that serve the diverse needs of Delaware citizens, including bankruptcy, child welfare, civil rights, criminal defense and prosecution, elder abuse, fraud, housing, human trafficking, white collar crime, and unemployment.

Age



- 26-35 years old
- 36-45 years old
- 46 and older

Applicant attorneys were asked to report their age as of the date of their application submission. The average age of all SFY 2023 PASLRAP applicants is 36.9 years, with a range between 26 and 58 years old. Just under half of the applicants were between the ages of 26 and 35 years old, while 44% were between 36 and 45. The remaining applicants were between the ages of 46 and 58.

Table 2.

Race & Ethnicity

Applicants were asked to self-identify their race and ethnicity. A vast majority (82%) of the attorneys identified as White/Caucasian, while 16% identified as Black/African American, and 2% as Multi-Racial. Regarding ethnicity, all of the attorneys (100%) identified as non-Hispanic.

Total Student Loan Debt

Cumulative student loan debt was self-reported by attorneys on their applications and recorded to the nearest \$100. PASLRAP applicants reported carrying between \$3,000 and \$409,500 in cumulative student loan debt. The average cumulative balance of PASLRAP applicants is \$166,800, which is well above the annual salary of the attorneys. The median student loan debt, \$171,700, was higher than the average, indicating that many attorneys are carrying a significant debt burden as a result of attending undergraduate and law school. To emphasize this point using Table 3: roughly a third of PASLRAP applicants carry loan debt under \$100,000, while under 30% carries debt between \$100,000 and \$199,999, and a staggering 2 in 5 applicants carry a loan balance over \$200,000.

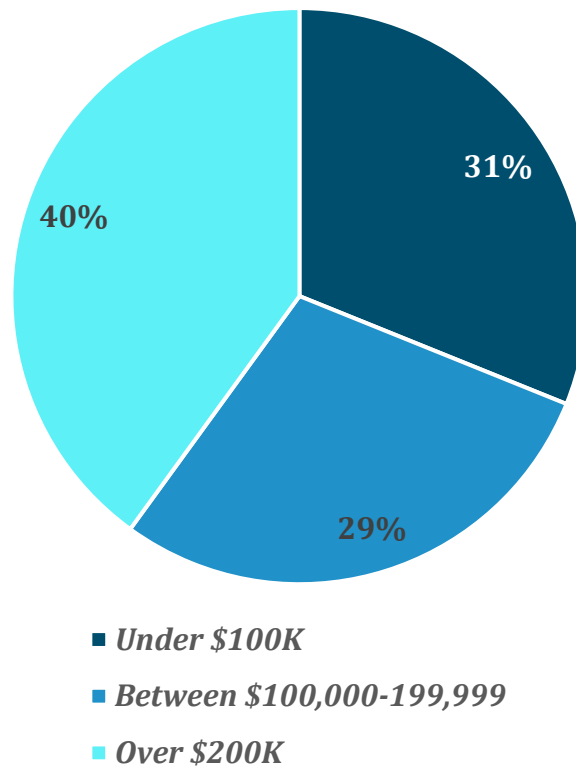


Table 3.

Recommendations

1. The State should explore implementing an online application submission and tracking system to streamline the process for applicants.
2. The State should explore the following regarding the salary cap to attract and retain quality attorneys:
 - a. Increase the salary cap from \$110,000 to \$150,000.
OR
 - b. Create an exception where the Loan Award Committee be granted the discretion to consider applicants above the listed salary cap based on available funds.
OR
 - c. Remove the salary cap altogether to expand the pool of eligible applicants to attract and retain the best attorneys in public service.
3. Timeline for application acceptance, processing, and payment schedule should be moved to begin within three months of the State Budget authorization to continue the program. By beginning the process in early Fall, this would allow attorneys to opt into monthly payments and provide the most immediate relief to attorney borrowers.

Conclusion

The Criminal Justice Council submits these findings and recommendations for consideration by the General Assembly based on the applications the CJC received in Spring 2023 and anonymous survey feedback from public attorneys. Aside from disappointments due to eligibility, the Program was well received by those that were awarded repayment benefits. One recipient, among several who had favorable experiences, succinctly noted that: "I cannot say enough good things about this program. It has helped me tremendously."

For a variety of reasons, not every public attorney in need of repayment assistance was eligible for benefits. The most frequently cited reason from interested attorneys who determined they were ineligible was the salary cap. One attorney who successfully applied for and received Program benefits indicated that: "I am personally very close to the salary cap of \$110k and I'm not in a leadership position. If I were to enter into a leadership position, I wouldn't be eligible due to salary increase. Please consider increasing the cap or

allowing assistant unit heads to qualify regardless of salary.” This sentiment was echoed in several other beneficiaries.

As this Program is approved for continuation, the Criminal Justice Council will continue to engage in outreach to identify and encourage eligible attorneys to apply to participate in the Program. This work will be performed through the statutory mandated Loan Award Committee. The Council encourages members of the General Assembly or any interested parties who wish to comment on this report or who wish to have input on the process as we move forward to contact the Criminal Justice Council. For more information and updates on upcoming application acceptance periods, visit the Program website: <https://de.gov/paslrp>.

Appendix A: HB 380



SPONSOR: Rep. Griffith & Sen. Paradee & Sen. Brown & Sen. Gay
Reps. Bush, Dorsey Walker, Gray, Lambert, Smyk; Sens.
Hansen, Lopez, Pinkney, Townsend

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 380
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE PUBLIC ATTORNEY STUDENT
LOAN REPAYMENT PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 51, Title 29 of the Delaware Code by placing all of the existing provisions of that chapter into a new "Subchapter I" and adding a new "Subchapter II" as shown by underline as follows:

Subchapter II. Public Attorney Student Loan Repayment Program

§ 5151. Establishment; statement of purpose.

(a) There is established a Public Attorney Student Loan Repayment Program for attorneys employed by the State of Delaware or one of Delaware's civil legal aid organizations for the purpose of practicing law. The program allows qualified applicants to apply for a payment from the State to the applicant's lending agency to pay a portion of the applicant's qualified educational loan. The Council shall administer the program.

(b) The purpose of the program is to improve the recruitment and retention of attorneys employed by the state of Delaware or one of Delaware's civil legal aid organizations to ensure high quality legal services.

(c) The application prescribed, and policies adopted pursuant to this subchapter shall be available on the Council's website.

§ 5152. Definitions.

As used in this subchapter:

(1) "Award" means the Council's decision to make a loan payment on an applicant's behalf.

(2) "Civil legal aid organization" means Community Legal Aid Society, Delaware Volunteer Legal Services, or Legal Services Corporation of Delaware.

(3) "Council" means the Delaware Criminal Justice Council.

(4) "Lending agency" means an entity that provides a qualified education loan.

(5) "Loan payment" means a payment by the Council to a successful applicant's lending agency of a portion of the applicant's qualified educational loan.

(6) "Loan award committee" means a committee composed of the following members:

- a. Executive Director of the Council.
- b. The Chief Defender, or the Chief Defender's designee.
- c. The Attorney General, or the Attorney General's designee.
- d. The Chief Justice, or the Chief Justice's designee.
- e. A member of the Delaware bar appointed by the Governor.

(7) "Program" means the Public Attorney Student Loan Repayment Program established in this subchapter.

(8) "Qualified educational loan" means a government, commercial, or foundation loan for actual costs paid for tuition and reasonable educational expenses related to an applicant's undergraduate or law degree program.

§ 5153. Funding.

(a) Appropriations for the program will be made to the Council through the Budget Appropriations Bill in a separate line item appropriation. The Council is authorized to accept private donations and federal funding to support the program.

(b) The Council may use up to 5% of the amount appropriated for the program to cover costs of administering the program.

§ 5154. Eligibility for the program.

To qualify to participate in the program, all of the following must apply:

(1) The applicant has secured a qualified educational loan prior to submitting an application.

(2) The applicant is an active member in good standing of the Bar of the Supreme Court of the State of Delaware or is practicing law under Rule 55.

(3) The applicant has been an employee of the State of Delaware or one of Delaware's civil legal aid organizations for at least a year, and the applicant's primary job function is the practice of law.

§ 5155. Application.

(a) The application to participate in the program shall require the applicant to certify that they meet the eligibility requirements of § 5154 of this subchapter. The application shall otherwise be in the form prescribed by the Council.

(b) The applicant must submit a new, completed application each year, along with any additional information the Council may request in accordance with program regulations.

§ 5156. Decision and disbursement.

(a) The ability to make awards each year is contingent upon the availability of funds.

(b) Funds are to be distributed evenly amongst the qualified applicants per year, with the loan award committee meeting annually to oversee the allocation of funds.

(c) Notwithstanding subsection (b) of this section, if there there are insufficient funds to make an award to every applicant who satisfies the requirements of this subchapter, the loan award committee shall give priority to applicants having the greatest financial need.

(d) The applicants having the greatest financial need is determined in the sole discretion of the loan award committee. The Council shall request all of the following information, but the weight to be given to the information shall be determined in the sole discretion of the loan award committee:

- (1) The applicant's income.
- (2) The applicant's spousal income.
- (3) The number of the applicant's dependents.
- (4) The total amount of the applicant's qualified educational loans.
- (5) The applicant's monthly loan payment amount.

(e) The Council shall make payment directly to the applicant's lending agency on behalf of the applicant.

(f) An applicant may receive only 1 award per year and may receive no more than 10 awards in the applicant's lifetime. An award may be made as a single annual payment or disbursed over periodic intervals, at the Council's discretion.

(g) Applicants who make over \$110,000 a year are ineligible for an award under this subchapter.

§ 5157. Amount of award.

An award shall be a minimum of \$2,500 and shall not exceed \$5,000.

§ 5158. Rules and regulations.

The Council may adopt implementing rules and regulations. Rules and regulations shall be adopted in consultation with the loan award committee.

§ 5159. Penalties.

If an applicant knowingly submits false information or commits fraud in connection with the application process, the Council may reevaluate the applicant's eligibility for an award and may withdraw an award. Any award made as the result of deliberate fraud may be recovered by the State through an action at law.

§ 5160. Annual reporting.

Each fiscal year, the Council shall report to the General Assembly, the Attorney General, Chief Defender, and the Chief Justice the following summary data, which shall be de-identified to the greatest extent possible:

- (1) The aggregate number of attorneys who applied for an award.
- (2) The aggregate number of attorneys who received an award.
- (3) The race, ethnicity, age, and gender represented by attorneys who applied for an award.
- (4) The race, ethnicity, age, and gender represented by attorneys who received an award.
- (5) The employer of attorneys who applied for an award.
- (6) The employer of attorneys who received an award.
- (7) The legal practice areas of attorneys who applied for an award.
- (8) The legal practice areas of attorneys who received an award.
- (9) The average amount of an award to an attorney under to the program.
- (10) Other summary data identified by the loan award committee.

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, unenforceable or unconstitutional, the remainder of such provisions, and the application of such provisions to any person or circumstance other than those as to which it is held invalid, shall not be affected.